

REMARKS

By this amendment, claims 23-58, 60-80, and 86-130 are pending, in which claims 41, 53, 71, 76, and 114 are currently amended. No new matter is introduced.

The Office Action mailed August 05, 2011 rejected:

- (1) Claims 23, 34, 35, 45, 51, 52, 58, 69, 70, 80, 91, 92, 102, 113, 114, 118, 129, and 130 as being obvious under 35 U.S.C. § 103 based on *Airy et al.* (U.S. Publication No. 2002/0142780) (hereinafter, “*Airy*”) in view of *Chu et al.* (U.S. Publication No. 2002/0049853) (hereinafter, “*Chu*”) in further view of *Na* (U.S. Publication No. 2006/0129631) (hereinafter, “*Na*”);
- (2) Claims 24, 29, 30, 38, 46, 48, 64, 65, 86, 87, 103, 108, and 109 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Brown et al.* (U.S. Publication No. 2002/0194205) (hereinafter, “*Brown*”);
- (3) Claims 25-28, 46, 47, 60-63, 82-85, and 104-107 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *McDonnell et al.* (U.S. Patent No. 7,257,386) (hereinafter, “*McDonnell*”);
- (4) Claims 33, 37, 39-42, 50, 53, 54-57, 68, 72, 73, 75-77, 94-96, 97-99, 112, 116, 117, 119-121, and 125 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Kohno* (U.S. Publication No. 2003/0120802) (hereinafter, “*Kohno*”);
- (5) Claims 32, 49, 67, 89, and 112 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Squibbs et al.* (U.S. Publication No. 2004/0198426) (hereinafter, “*Squibbs*”);

- (6) Claims 36, 71, 93, 115 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Kobayashi et al.* (WIPO Publication No. WO/2003/026216) (hereinafter, “*Kobayashi*”);
- (7) Claims 31, 66, 88, and 110 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Brown* and *Kohno*;
- (8) Claims 43, 44, 78, 79, 100, 101, 122, 123, and 126-128 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Kohno* and *Deen* (U.S. Publication No. 2003/0167317) (hereinafter, “*Deen*”); and
- (9) Claims 74 and 124 as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Harrington et al.* (U.S. Patent No. 6,289,012) (hereinafter, “*Harrington*”).

Claims 23, 34, 35, 45, 51, 52, 58, 69, 70, 80, 91, 92, 102, 113, 114, 118, 129, and 130 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy* in view of *Chu* in further view of *Na*.

First, Applicants kindly note that the Office Action (per page 2) asserts that claims 23, 34, 35, 45, 51, 52, 58, 69, 70, 80, 91, 92, 102, 113, 114, and 118 are rejected under 35 U.S.C. § 103 based on *Airy* in view of *Chu* in further view of *Na*. However, the rejection is actually directed to claims 23, 34, 35, 45, 51, 52, 58, 69, 70, 80, 91, 92, 102, 113, 114, 118, 129, and 130. As such, Applicants will address the rejection consistent with the detailed action as a whole.

Second, Applicants respectfully disagree with the Office Action’s interpretation that the applied references disclose, or render obvious, all of the claim features. As such, for at least the following reasons, Applicants respectfully traverse the rejection.

As stated in MPEP § 2142, “the initial burden of factually supporting any *prima facie* conclusion of obviousness” is on the Patent Office. Pursuant to this burden, the Office Action must consider “all words in a claim . . . in judging the patentability of that claim against the prior art.” MPEP § 2143.03 (emphasis added); *see also In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If the Office Action fails to address all of the recitations of a rejected claim, then no *prima facie* case of obviousness has been established as such a deficiency fails to satisfy the evidentiary requirements articulated by the Supreme Court in *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). *See* MPEP § 2141. In this case, there are substantial differences between the claimed features and those of the applied references. For example, independent claim 23 recite, *inter alia*, “**after an interruption occurs in the upload session, receive a list of completely uploaded data packet identifiers each of which uniquely identifies one corresponding data packet within the upload session.**” (Emphasis added). In addition, independent claims 45, 58, 80, and 102 recite similar features in varying scope. Applicants submit, as presented below, that the applied references do not disclose or even render obvious such features and, thus, the initial burden has not been met.

With respect to the above claim features, the Office Action (per page 5) admits that *Airy* and *Chu* fail to disclose the features of “after an interruption occurs in the upload session, receive a list of completely uploaded data packet identifiers each of which uniquely identifies one corresponding data packet within the upload session.” In an attempt to cure the deficiencies of *Airy* and *Chu*, the Office Action relies on paragraphs [0120] and [0132] of *Na*. For the sake of completeness, the relevant portions of the Abstract as well as paragraphs [0053], [0121], [0122], [0131], and [0132] are provided below (emphasis added):

[Abstract] A method for controlling a media message upload through a wireless communication network is disclosed. In one aspect of the present

invention, **when a communication terminal uploads particular media data to an application server, the communication terminal uploads the media data by organizing it into a plurality of segments . . .**

[0053] **To upload the media data to the application server 40, the mobile communication terminal 10 issues an upload request message for each group of a predefined number (e.g., K) segments of the media data. . . .** After sending an upload request to the application server 40, the mobile communication terminal 10 sends K segments of the media data and waits for a response message from the application server 40.

[0121] The mobile communication terminal 10 issues a request message depending on the response message from the application server 40. As shown in FIG. 17, the request message comprises a command 220, a header 222

[0122] The header 222 includes information on used languages . . . , user agent information . . . , a host name . . . , **content length given in bytes (Contents-Length, e.g., 500)**, content range information indicating the range of the content to be uploaded by the resumed upload operation (**X-Upload-Content-Range, e.g., 1001-1500/1500 (where 1500 is the size of the whole data)**)

[0131] Receiving a request message querying where the upload should be resumed, the application server 40 issues a response message comprising a statud line 260, . . . if a previously uploaded portion of the media data exists.

[0132] The statud line 260 includes a message The header 262 includes date information . . . , server information . . . , a connection status field . . . , a cache control field indicative of the control status of a temporary file of the data being uploaded . . . , a content type field . . . , the message body ID . . . , and **the range of the content that has been uploaded successfully before the upload error (X-Upload-Range, e.g., 1-1000/1500).**

As stated by the above-reproduced paragraphs, the *Na* system provides for uploading of a media data to an application server by first organizing the media data into a plurality of segments. (See Abstract). The media data is then uploaded by issuing one upload request message for each group of K number of segments. (See paragraph [0053]). If, for instance, the upload is interrupted, the mobile communication terminal may issue a request message that indicates the

range of the content to be uploaded by a resumed upload operation (e.g., **1001-1500/1500 where 1500 is the size of the whole data in bytes**). (See paragraphs [0121] and [0122]). The application server may also issue a response message comprising a status line that includes the range of the content that has been uploaded successfully before the upload was interrupted (e.g., **1-1000/1500**). (See paragraphs [0121] and [0122]).

As such, *Na* merely describes transmitting a range of the content that has been uploaded successfully where, for instance, the range (e.g., 1-1000/1500) is depicted in bytes (e.g., wherein 1500 is the size of the whole data in bytes). To be sure, *Na* does not disclose transmission, after the occurrence of the upload session, of a list of completely uploaded data packet identifiers where each of the identifiers uniquely identifies one corresponding data packet within the upload session, much less all the features as recited by the independent claims. Therefore, *Na* fails to overcome the deficiencies of *Airy* and *Chu*. Consequently, no prima facie case of obviousness has been established.

Thus, for at least the reasons discussed above, Applicants respectfully submit that the applied references fail to disclose or render obvious all of the features of independent claims 23, 45, 58, 80, and 102. In addition, the dependent claims also are considered allowable for at least the reasons advanced for the independent claims from which they variously depend, as well as for the additional features the dependent claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 24, 29, 30, 38, 46, 48, 64, 65, 86, 87, 103, 108, and 109 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Brown*.

First, Applicants kindly note that the Office Action (per page 10) asserts that claims 24, 29, 30, 46, 64, 65, 80, 86, 87, 103, 108, and 109 are rejected under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Brown*. However, the rejection is actually directed to claims 24, 29, 30, 38, 46, 48, 64, 65, 86, 87, 103, 108, and 109. As such, Applicants will address the rejection consistent with the detailed action as a whole.

Second, with respect to the rejection of claims 24, 29, 30, 38, 46, 48, 64, 65, 86, 87, 103, 108, and 109 under 35 U.S.C. § 103, the secondary reference of *Brown* fails to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 24, 29, 30, 38, 46, 48, 64, 65, 86, 87, 103, 108, and 109 also are patentable for at least the reasons the independent claims are patentable, from which the above-mentioned claims depend, as well as for the additional features the above-mentioned claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 25-28, 46, 47, 60-63, 82-85, and 104-107 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *McDonnell*.

First, Applicants kindly note that the Office Action (per page 12) asserts that claims 25-28, 46, 47, 60-63, 82-85, and 104-108 are rejected under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *McDonnell*. However, the rejection is actually directed to claims 25-28, 46, 47, 60-63, 82-85, and 104-107. As such, Applicants will address the rejection consistent with the detailed action as a whole.

Second, with respect to the rejection of claims 25-28, 46, 47, 60-63, 82-85, and 104-107 under 35 U.S.C. § 103, the secondary reference of *McDonnell* fails to overcome the deficiencies

set forth above with respect to the rejection of the independent claims. Therefore, claims 25-28, 46, 47, 60-63, 82-85, and 104-107 also are patentable for at least the reasons the independent claims are patentable, from which the above-mentioned claims depend, as well as for the additional features the above-mentioned claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 33, 37, 39-42, 50, 53, 54-57, 68, 72, 73, 75-77, 94-96, 97-99, 112, 116, 117, 119-121, and 125 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Kohno*.

First, Applicants kindly note that the Office Action (per page 17) asserts that claims 33, 37, 39-42, 53, 54, 56, 68, 72, 73, 84-95, 97-99, 112, 116, 117, 120, and 121 are rejected under 35 U.S.C. § 103 based on *Airy*, *Chu*, and *Na* in further view of *Kohno*. However, the rejection is actually directed to claims 33, 37, 39-42, 50, 53, 54-57, 68, 72, 73, 75-77, 94-96, 97-99, 112, 116, 117, 119-121, and 125. As such, Applicants will address the rejection consistent with the detailed action as a whole.

Second, with respect to the rejection of claims 33, 37, 39-42, 50, 53, 54-57, 68, 72, 73, 75-77, 86-96, 97-99, 112, 116, 117, 119-121, and 125 under 35 U.S.C. § 103, the secondary reference of *Kohno* fails to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 33, 37, 39-42, 50, 53, 54-57, 68, 72, 73, 75-77, 86-96, 97-99, 112, 116, 117, 119-121, and 125 also are patentable for at least the reasons the independent claims are patentable, from which the above-mentioned claims depend, as well as for the additional features the above-mentioned claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 32, 49, 67, 89, and 112 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy, Chu, and Na* in further view of *Squibbs*.

With respect to the rejection of claims 32, 49, 67, 89, and 112 under 35 U.S.C. § 103, the secondary reference of *Squibbs* fails to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 32, 49, 67, 89, and 112 also are patentable for at least the reasons the independent claims are patentable, from which claims 32, 49, 67, 89, and 112 depend, as well as for the additional features the dependent claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 36, 71, 93, 115 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy, Chu, and Na* in further view of *Kobayashi*.

With respect to the rejection of claims 36, 71, 93, 115 under 35 U.S.C. § 103, the secondary reference of *Kobayashi* fails to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 36, 71, 93, 115 also are patentable for at least the reasons the independent claims are patentable, from which claims 36, 71, 93, 115 depend, as well as for the additional features the dependent claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 31, 66, 88, and 110 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy, Chu, and Na* in further view of *Brown and Kohno*.

With respect to the rejection of claims 31, 66, 88, and 110 under 35 U.S.C. § 103, the secondary references of *Brown and Kohno* fail to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 31, 66, 88, and 110 also are patentable for at least the reasons the independent claims are patentable, from which claims 31,

66, 88, and 110 depend, as well as for the additional features the dependent claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 43, 44, 78, 79, 100, 101, 122, 123, and 126-128 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy, Chu, and Na* in further view of *Kohno and Deen*.

With respect to the rejection of claims 43, 44, 78, 79, 100, 101, 122, 123, and 126-128 under 35 U.S.C. § 103, the secondary references of *Kohno and Deen* fail to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 43, 44, 78, 79, 100, 101, 122, 123, and 126-128 also are patentable for at least the reasons the independent claims are patentable, from which claims 43, 44, 78, 79, 100, 101, 122, 123, and 126-128 depend, as well as for the additional features the dependent claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 74 and 124 are rejected as being obvious under 35 U.S.C. § 103 based on *Airy, Chu, and Na* in further view of *Harrington*.

First, Applicants kindly note that the Office Action (per page 31) asserts that claims 74, 124, and 125 are rejected under 35 U.S.C. § 103 based on *Airy, Chu, and Na* in further view of *Harrington*. However, the rejection is actually directed to claims 74 and 124. As such, Applicants will address the rejection consistent with the detailed action as a whole.

Second, with respect to the rejection of claims 74 and 124 under 35 U.S.C. § 103, the secondary reference of *Harrington* fails to overcome the deficiencies set forth above with respect to the rejection of the independent claims. Therefore, claims 74 and 124 also are patentable for at least the reasons the independent claims are patentable, from which claims 74 and 124 depend,

as well as for the additional features the dependent claims recite. Accordingly, withdrawal of the rejection is respectfully requested.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

November 4, 2011
Date

/Phouphanomketh Ditthavong/
Phouphanomketh Ditthavong
Attorney for Applicants
Reg. No. 44658

Ngai Zhang
Attorney/Agent for Applicant(s)
Reg. No. 65473

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9951
Fax (703) 519-9958